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The situation of human rights in the Democratic Republic of the Congo

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo (former Zaire), submitted by the Special Rapporteur, Mr. Roberto Garretón, pursuant to Economic and Social Council decision 1998/260 of 30 July 1998.

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Annex

Report on the situation of human rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur pursuant to Economic and Social Council decision 1998/260 of 30 July 1998

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A. Conclusions 86–95 14

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Abbreviations

AFDL	Alliance of Democratic Forces for the Liberation of Congo-Zaire
ANC	Congolese National Army
ANR	National Information Agency (Agence nationale de renseignements)
APR	Rwandan Patriotic Army
AZADHO	Association zaïroise pour la défense des droits de l'homme
now	
ASADHO	Association africaine pour la défense des droits de l'homme
CADDHOM	Collectif d'Action pour le Développement des Droits de l'Homme
CEDAW	Committee on the Elimination of Discrimination against Women
CNONGD	Conseil national des Organisations Non-Gouvernementales de Développement
CNS	National Sovereign Conference
COM	Military Court (Cour de l'ordre militaire)
DEMIAP	Detection of Unpatriotic Activities Police
DRC	Democratic Republic of the Congo
DSP	Special Presidential Division
FAC	Congolese Armed Forces
FAR	Rwandan Armed Forces
FAZ	Zairian Armed Forces
FONUS	Forces Novatrices pour l'Union et la Solidarité
GSSP	Groupe Spécial de la Sécurité Présidentielle
HCR-PT	Supreme Council of the Republic – Transitional Parliament
ICRC	International Committee of the Red Cross
MNC/L	Mouvement National Congolais/Lumumba
MPR	People's Movement for the Revolution
NGO	Non-governmental organization(s)
PALU	Unified Lumumbist Party
PANADI	Party of Nationalists for Integral Development
PIR	Rapid Intervention Police
RCD	Rassemblement congolais pour la démocratie
SARM	Military Action and Information Service
SNIP	National Intelligence and Protection Service (Service National d'Intelligence et de Protection)
UDPS	Union for Democracy and Social Progress

UFERI	Union of Independent Federalists
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
VSV	The Voice of the Voiceless (Voix des sans voix)
WFP	World Food Programme

I. Introduction

A. Mandate and activities

1. Commission on Human Rights resolution 1994/87 made provision for the appointment of a Special Rapporteur to report on the situation of human rights in Zaire, now the Democratic Republic of the Congo. His mandate was renewed by resolutions 1995/69, 1996/77, 1997/58 and 1998/61, after the Commission had considered his reports E/CN.4/1995/67, E/CN.4/1996/66, E/CN.4/1997/6 and Add.1 and 2, and E/CN.4/1998/65. The last two resolutions also requested him to submit an interim report to the General Assembly (A/52/496).This report comprises information received up to 31 August 1998.[1]

2. On 4 May, the Special Rapporteur requested the Government of the Democratic Republic of the Congo to allow him to visit the country from 2 to 15 August, which would have enabled him to learn at first hand the Government's version of events. He never received a reply.

3. In the same spirit of objectivity, he sought the cooperation of the Government by submitting to it all the cases cited in this report. There were 37 communications transmitting 236 complaints involving more than 3,500 people. Unfortunately, no reply was ever received to any of these requests for information. However, this attitude, which is typical of Governments that are the subject of investigation by the Commission on Human Rights, in no way detracts from the validity of the report, either from a legal point of view – all the more so when the State is the party responsible – or where the seriousness, objectivity and truth of its contents are concerned. This has always been the attitude of the Commission on Human Rights and the General Assembly, as noted in E/CN.4/1998/65.

4. The Special Rapporteur held two rounds of consultations in Geneva (18 to 22 May and 10 to 14 August), and another round in Brussels and Paris (13 to 17 July). He interviewed immediate victims, relatives of victims, exiles, leaders of non-governmental organizations, members of political parties, priests, ministers and religious leaders, journalists and lawyers (see annex 1). On two occasions, he issued press releases.

B. The Special Rapporteur and the authorities of the Democratic Republic of the Congo

5. Ever since the present Government took power on 17 May 1997, it has refused to cooperate with the Special Rapporteur of the Commission on Human Rights, the joint mission established pursuant to resolution 1997/58, whose mandate was not renewed by resolution 1998/61, and even with the Investigative Team of the Secretary-General, who noted in his letter to the Security Council that: "It is a source of deep regret that, between its first deployment in August 1997 and its withdrawal in April 1998, the Team was not allowed to carry out its mission fully without hindrance". The reason for withdrawing the Team was the total lack of cooperation on the part of the Government.

6. The spirit of cooperation that was displayed in a mildly worded and respectful note verbale dated 10 March in reply to the report contained in document A/52/496, gave way to one of renewed aggressiveness towards the Special Rapporteur of the Commission on Human Rights and the United Nations.

C. Joint mission of the Commission on Human Rights

7. Commission on Human Rights resolution 1998/61 did not renew the mandate of the joint mission established by Commission resolution 1997/58 on the proposal of the Special Rapporteur, to investigate violations of the right to life committed in eastern Zaire since 1 September 1996.

D. Secretary-General's Investigative Team

8. The Team established by the Secretary-General on 8 June 1997 to investigate complaints of atrocities in the eastern part of the Democratic Republic of the Congo was withdrawn on 17 April because of the total lack of cooperation from the Government of the Democratic Republic of the Congo. It noted that the authorities of the Democratic Republic of the Congo had harassed and intimidated witnesses who had testified before the investigators. The Office of the High Commissioner for Human Rights considered this a serious setback in the battle against impunity.

9. The Team submitted its report (see S/1998/581) giving a detailed account of the obstacles created by the authorities

to its work and confirming the existence of human rights violations committed by the Zairian Army; killings committed during the inter-ethnic violence beginning in 1993; the killing of civilians during attacks on refugee camps by forces of the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL); other violations of international humanitarian law by AFDL; killings committed by *Interahamwe* and Mai-Mai militias since 1996; and crimes against humanity attributable to AFDL and its allies. These conclusions are basically the same as those of the preliminary report of the Special Rapporteur (E/CN.4/1997/6/Add.2) and the joint mission of the Commission on Human Rights (A/51/942 and E/CN.4/1998/64).

10. However, the Government's claim in its reply (S/1998/582) that "the report is merely an exact copy of the Garretón report, which it plagiarized" (para. 10), is not credible. It accuses the Special Rapporteur, *inter alia*, of lack of objectivity, of waging a campaign against the Democratic Republic of the Congo and of exceeding his mandate.

11. The references to "plagiarism" or "copying" of the Special Rapporteur's reports are inaccurate: at times the alleged plagiarism would seem to refer to the preliminary report contained in document E/CN.4/1997/6/Add.2 (see paras. 15 to 25 of the reply), which is absurd and an insult to the Secretary-General's Investigative Team, since it is hard to imagine that a report prepared after 10 months of work with high-level technical and human support would be plagiarised from a report that is clearly identified as preliminary following a five-day visit to the region. Moreover, the report contained in document S/1998/581 covers events that occurred well after the preliminary report as well as material not included in the latter (destruction of evidence, the events at Shanje, Shabunda, Tingi-Tingi, Kisangani, Equateur and many others).

12. In other parts of the same chapter of the reply ("I. The Garretón report: principal source of the report of the Investigative Team"), it is suggested that the alleged plagiarism occurred in relation to the report contained in document E/CN.4/1998/65 (paras. 23, 27, 28 and 30 of the reply). Nevertheless, in this case plagiarism is impossible, since paragraph 1 of the above-mentioned report states that "the report covers the various rights recognized in the international instruments and their situation throughout the country, not including violations of human rights and international humanitarian law dealt with by the joint mission".

13. The Security Council took no decisions after receiving the report of the Secretary-General's Investigative Team. However, the President of the Council issued a statement in which he requested the Government of the Democratic Republic of the Congo (and that of Rwanda) to immediately investigate the allegations contained in the report and inform the Council of any developments by 15 October. Up to the time this report was finalized, the Special Rapporteur had no knowledge of the launching of any investigation. The Special Rapporteur considers it very unlikely that any such investigation will ever be carried out, since the Government believes that: the allegations are false (para. 2); the Secretary-General's report seeks "to camouflage the responsibilities of the Powers implicated in the genocide in Rwanda"; it "is not based on concrete facts" (para.10); it is "a collection of unfounded allegations" (para.11); "it is clear that these alleged violations of human rights and humanitarian law are completely unfounded" (para.131).

14. Furthermore, top Government officials, including the Minister of Information, the Chairman of the National Radio/Television Corporation and the President's Principal Private Secretary were imprisoned following a report on State television on wars in Africa ("plus jamais ça") that showed what happened to the refugees (18 to 22 May).

E. International obligations of the Democratic Republic of the Congo and cooperation with mechanisms of the Commission on Human Rights

15. The Democratic Republic of the Congo is a party to the instruments listed in annex 2, but has not become a party to any new convention since the change of Government on 17 May 1997. Since the country was not required to submit reports to treaty monitoring bodies during the year, the status with respect to overdue reports indicated in the report contained in document E/CN.4/1998/65, paras. 12 to 18, remained unchanged.

16. On 25 April, the Minister of the Interior, Mwenze Kongolo, made the startling statement that he questioned the validity of the Universal Declaration of Human Rights, arguing that his country should not be accused on the basis of a text which it had not adopted and in the drafting of which it had not participated.

17. The Government did not cooperate with other rapporteurs and working groups of the Commission on Human Rights that submitted urgent cases to it for action.

II. Continuing ethnic armed conflicts in Kivu (situation prior to 2 August)

18. Ethnic wars continued to rage in North Kivu (reports E/CN.4/1995/67, paras. 85-95; E/CN.4/1996/6, paras. 23-32; E/CN.4/1997/6/Add.1; E/CN.4/1997/6, paras.164-169; E/CN.4/1998/65, paras.74-85), affecting the entire population, including Hutu refugees as well as Congolese ethnic groups such as the Nyanga and Nande and the Bembe, Fulero and Lega from the southern part of the country. Further complicating this picture was the presence of Rwandan Tutsis – seen as external aggression – and Ugandan rebels, *Interahamwe*, Burundians, and problems of land ownership and access to power, not to mention the issue of nationality in the south. There were serious clashes, attacks and burning of property resulting in numerous deaths, injuries and displaced persons in North Kivu: Mera, Limangi, Kibumba (8 January), Lubango (1 May), Goma (16 and 17 May). AFDL forces are accused of pursuing anyone suspected of helping the Mai-Mai and one of its leaders, "Commander 'Strongman' Kagame", is accused of ordering their execution[2] (3 December 1997). In order to facilitate the installation of Tutsis, town records were burned. In the south, the main events occurred on 18 February in Bukavu, when massive searches were conducted for Mai-Mai militiamen, and on 20 and 21 February in Butembo, when that city was taken by the Mai-Mai in protest against the violence of the Congolese Armed Forces (FAC), only to be recaptured later by AFDL using unprecedented violence that resulted in the deaths of at least 300 people.

19. There are three parties to the conflict: (a) Tutsi, Banyamulenge, Congolese armed forces (FAC) and Rwandan Patriotic Army (APR), which go back and forth between the Democratic Republic of the Congo and neighbouring countries; (b) Mai-Mai, remaining *Interahamwe* and former members of the Rwandan armed forces (FAR); and (c) the civilian population, the main victim, which is becoming increasingly sympathetic to the Mai-Mai, though all it really wants is peace. The Government considers that it is simply dealing with an insurrection staged by France through its Ambassador in Burundi and its Consul in Bukavu, the Vatican, Caritas, the International Committee of the Red Cross (ICRC), the Office of the United Nations High Commissioner for Refugees and exiled Mobutu supporters, and it is supporting those whom the population views as the aggressors.

20. The Congolese armed forces have aggravated the problem of internally displaced persons by moving people (Kubumba, Rugari, Byahi, Tyazo) in order to facilitate military manoeuvres, as recognized by the Provincial Security Council of Northern Kivu.

21. The traditional chiefs have been replaced by Tutsi and are often detained and charged with cooperating with the Mai-Mai (see annex 3).

Mutiny of the Banyamulenge

22. In February, Banyamulenge soldiers defied President Kabila's orders to lay down their arms and took refuge in Remera and Itombwe with their arsenals, refusing to be transferred to other military regions. The Vice-Governor of Southern Kivu, a Muyamulenge, and his chauffeur were caught with arms in their possession, some of which had been taken from the Bukavu Regiment. On 4 March, the former Chief of Staff of the Congolese armed forces, a Rwandan named James Caber, managed to return to FAC. His return – attributable to Rwandan interests in thwarting the investigations of the Secretary-General's team that was scheduled to arrive in the region, forcing Kabila not to hold the constitutional referendum in a hostile area and rejecting a new Constitution that would not grant them Congolese nationality – is an important precipitating factor in the August rebellion. On 24 February, the Banyamulenge leader, Ruhimbika Muller, declared that Kabila was worse than Mobutu and that the war of liberation was over and occupation was beginning. Muller was detained and sentenced to death by the Military Court on 26 April, but was freed by his supporters. He was again detained, and escaped again.

III. The August rebellion[3]

23. The attitude of the Banyamulenge, Rwanda's annoyance at the failure to resolve the problem of nationality and popular desperation over the Rwandan presence in the Government and in the armed forces led to the President's decision of 27 July to remove the foreign military forces, thanking them for their support in the AFDL victory. Only days before, some of the Rwandan officials had been removed from the Government; others were abroad. The Rwandan official who served as Chief of Staff of FAC had been sent back to Rwanda and replaced by a Katangan soldier and then by the President's son. In the first sign of rebellion, only a few hundred Rwandan soldiers returned to their country.

24. On 2 August, there was an uprising of Banyamulenge and Rwandan soldiers in Kinshasa (Kokolo and Tcahtchi), who announced that the FAC would depose Kabila on the

grounds of corruption, nepotism and dictatorial bearing. It resulted in numerous deaths and injuries.

25. The rebels established the Congolese Movement for Democracy; the leader was the former political prisoner Arthur Z'Ahibi Ngoma,[4] but the members were overwhelmingly Tutsi. It later became the Rassemblement Congolais pour la démocratie (RCD). Within the party there were differences between Rwandan nationals, who favoured getting rid of Kabila and recovering their lost power, and democratic factions which favoured a reconciliation among the Congolese people and the establishment of a democratic regime.

26. The Government's response was no less violent. Particularly serious was its incitement to hatred of the Tutsis (who were called "viruses, mosquitoes, garbage" that should be eliminated), which prompted the civilian population to become involved in the conflict, placing it at serious risk of becoming a military target. Towards the end of August, and at Kabila's request, the armed forces of Zimbabwe and Angola intervened in support of his regime; thus, with Rwanda and Uganda openly backing the rebels, there were at least five countries involved.

27. Notwithstanding the foregoing, in the Special Rapporteur's view, the conflict remains an internal armed conflict, subject to article 3 of all four 1949 Geneva Conventions.

A. Violations of international humanitarian law attributable to the Government

28. The violations of international humanitarian law were based on a policy of ethnic cleansing: "We have cleansed Kinshasa", said an official of the National Information Agency (ANR). This constitutes "an adverse distinction founded on race", contrary to article 3(1) of the Conventions.

29. Violence to life and summary executions (articles 3 (1) (a) and (d)). The summary executions carried out by government forces of the Tutsis or persons thought to be Tutsi caused horror. Many were thrown into the Congo and Ndjili Rivers and killed. Others were burned alive. Angolan and Zimbabwean soldiers indiscriminately shelled civilian populations in Kimbaseke, Masina, Ndjili and Mikonga (Kinshasa).

30. *Arbitrary detentions*. Since the outbreak of the conflict, many persons of Tutsi origin, Banyamulenge or suspected rebel sympathizers have been detained without being charged or tried (the Minister of Human Rights confirmed 800 detentions in the early days) in military camps (Lokolela or in offices of the Military Detection of Unpatriotic Activities Police (DEMIAP) or the National Information Agency (ANR)), both in Kinshasa and in the regions. The ICRC did not gain access to 160 prisoners until 21 August. In some cases, women and children or journalists accused of supporting the rebels (for example, Claude Kamanga Mutond, from the Associated Press) were also detained.

31. *Sexual violence* (article 3(1) and 3(1) (c)). The Special Rapporteur received testimony on the sexual assault of Tutsi women as a war tactic.

32. *Recruitment of children*. All reports indicate that children are recruited for war activities, just as they were in the 1996 rebellion.

B. Violations of international humanitarian law attributable to rebel forces

33. The main victims of violations of article 3 of the Conventions have been the democratic sectors opposed to the Kabila regime, the Mai-Mai, indigenous chiefs and leaders of social organizations, and the Katangan soldiers of the Congolese armed forces.

34. *Violence to life and summary executions*. The most serious incident was the murder of 37 civilians in Kasika, in Southern Kivu, on 24 August, in which three nuns and one priest died. Other sources estimated the number of deaths at more than 200. Many rebel Congolese soldiers who deserted in horror at this massacre were executed. As in the 1996 rebellion, the rebels threw the corpses of their victims into the Ruzizi River.

35. *Arbitrary detentions and deportations*. (article 3 (1)). Persons suspected of being close to Kabila have been arbitrarily deprived of freedom and some have been deported to Rwanda.

36. *Torture* (article 3 (1)). Various reports mention torture of prisoners by the rebels.

37. *Sexual violence*. The rebels also raped women belonging to indigenous ethnic groups, as acts of war.

38. *Obstruction of humanitarian assistance*. Continuing with a practice denounced by the Special Rapporteur, the joint mission of the Commission on Human Rights and the Secretary-General's Investigative Team in their reports on the war of 1996–1997, the rebel forces, with foreign support, have prevented the delivery of humanitarian assistance to the victims in Bukavu, Uvira and other places. Vehicles of the United Nations, its agencies and non-governmental

organizations have been confiscated and plundered and their staff members have been threatened; this has hampered their ability to provide assistance in keeping with their mandates. On 20 August, the World Food Programme publicly protested.

39. *Forced recruitment of civilians, including children.* Public officials in the areas occupied by the rebellion were forced to join it against their will. There have been complaints, as there were in the so-called war of "liberation", that 15-year-old children were being recruited, including those whom UNICEF was helping to reintegrate in society.

IV. Human rights and democracy

40. The Special Rapporteur once again refers to what he considers the "human right to democracy", set forth in the provisions of paragraphs 2 (b) (iii) and 3 (a) and (b) of Commission on Human Rights resolution 1998/61.

A. The power structure

41. The President continues to exercise full executive and legislative powers, including the power to dismiss judges (E/CN.4/1998/65, paras. 32 to 37); all political parties are still banned, and, since May 1997, a "legal state of war" has been in effect. Decree-Law 74 of 25 May established a future "Constituent and Legislative Assembly" (Assemblée Constituante et Legislative) of 300 deputies, for which post any Congolese who was not a key figure in the Mobutu regime is eligible, and for which some 20,000 registered candidates are competing. It is not clear how or when they will be appointed, or by whom, except for 40 who were members of the Drafting Committee. The most serious concern is that the President reserves the right to abolish these posts and resume the legislative function. The Assembly was supposed to have been installed on 15 August but the war prevented that from taking place. Its function will be legislative and constituent but – and this is a very negative aspect – the referendum to approve the Constitution will be held "eventually". It has not been able to establish any credibility.

42. Since no progress whatsoever had been made before the war in the preparation of elections, the announcement that they will be held in early 1999 does not seem realistic. The suspension of all political parties (except AFDL) does not bode well for progress in this area. The democratic opposition that fought against Mobutu has no space whatsoever. In the view of the Ministry of the Interior and AFDL, violation of this ban on political parties is a crime that should be tried before the military court (16 January).

43. One development that should be highlighted is the establishment on 1 June 1996 of a Ministry of Human Rights; thus far, however, it has no visibility.

44. On 30 March (one month late), the 254-article draft Constitution was made public. It establishes a centralized system; introduces English (which non-Tutsi ethnic groups do not know) as the national language; declares 17 May a holiday; does not resolve the problem of the nationality of the Banyamulenge and relocated peoples; and eliminates the post of Prime Minister. All of this has caused enormous frustration for it disregards the historic agreements adopted at the National Sovereign Conference.[5]

45. More than 20,000 candidates, including 2,000 abroad, registered for posts in the Assembly, but nothing is known concerning their election or appointment. The election timetable is still uncertain.

B. Armed forces

46. Until July, the picture described in previous reports remained unchanged. The Chief of Staff continued to be a despised Rwandan Commander. The FAC – a genuine "international" army, according to one exile – was assigned by the various Governments to "eliminate" their respective rebels: the Congolese Mai-Mai; the Rwandan *Interahamwe*; the Ugandan and Burundian rebels, all with bases in the Democratic Republic of the Congo. However, various internecine struggles developed within FAC among Katangans, Rwandans and former members of the Zairian armed forces, which took their toll in lives (in Matadi, among former members of the Zairian armed forces and AFDL "kadogos", in Kibumkba, on 8 January, and elsewhere). In February, the rift grew wider with the mutiny of the Banyamulenge, which culminated in the expulsion of the "foreigners".

47. Although the Government denied it, children were a strong presence in the ranks of the Congolese armed forces, as brought out by the death of a member of the local Red Cross at the hands of a 13-year-old soldier who was sentenced to death and later pardoned.

V. Situation of refugees

48. The Goma refugee camps are closed and UNHCR cannot work even with the Tutsi who are returning from Rwanda. On 19 February a promise was given to the High Commissioner that the problems would be resolved and the camps would be reopened but nothing materialized. None of the projects for the peaceful return of the 1994 refugees to Rwanda had the backing of the Governments concerned.

49. It is alleged that in July there were still some 100,000 refugees in hiding in Northern and Southern Kivu; they come out only to obtain medicines and food or to attend church. They are protected by the Congolese population but are being pursued by the "English-speaking soldiers".

50. There were cases of refoulement: The Congolese armed fores expelled some 200 Burundian refugees and some 140 Rwandans to their countries of persecution. On 11 May, 60 refugees from Congo-Brazzaville, including Bonaventure Boukaka Oudiabantu, were expelled on the grounds that they belonged to the Bernard Kolelas militia.

51. The war paralysed efforts by UNHCR to repatriate Congolese refugees from Tanzania.

VI. Situation of human rights[6]

A. Right to life

Death Penalty

52. The military courts have continued, after conducting irregular trials, to impose the death penalty with chilling frequency (see paras. 67 and 68). The presiding officer of the Court, Munkoto Kiyana, in his announcement on 26 January of 21 public executions for armed robbery, said that it would serve as a solemn warning to all criminals. According to highly reliable reports, 56 persons were executed in the first three months of the year, and the death penalty continues to be imposed up to the present. A boy of 13 was condemned to death, although his sentence was commuted to life imprisonment (annex 4).

Enforced disappearances

53. The Special Rapporteur received many reports of enforced disappearances, but the complete lack of Government cooperation has prevented him from gathering further details. Therefore, no cases are included in this report.

54. The whereabouts of Professor Aloïs Kayihura and the 33 Rwandans who were abducted in December 1997 (E/CN.4/1998/65, para. 129) remains unknown.

Arbitrary deprivation of life through abuse of power shielded by impunity

55. Abuse of power by members of the army has created many victims, bringing to mind the violence of the Mobutu era. Applying the death penalty regularly is not a solution to this problem (annex 5).

Death by torture

56. There have been cases in which torture led to the victims' death (a female prisoner died of starvation and her 123 companions survived but were later expelled to Angola). In Kisenso on 25 June, a detainee died in the police station as a result of torture.

B. Right to physical and psychological integrity

Torture

57. During his consultations the Special Rapporteur received direct testimony concerning torture. Professor Ngoma – later the leader of the rebellion – said that he had received 51 lashes on being detained, "one for each year of his age", while another released prisoner reported that, while he himself had not been tortured, most of the prisoners within the DEMIAP (Détention Militaire des Activités Anti-Patrie) compound had been; that institution was described as a "no-law zone". The Centre for Human Rights and International Humanitarian Law of Lubumbashi reported serious violations of physical and psychological integrity. Many reports from attorneys and nongovernmental organizations confirm those statements. The Mai-Mai in detention are constantly beaten, as are those accused of witchcraft; such accusations are often made in order to exact revenge. Once again, rapes of women and girls in detention have been reported. (Annex 6)

C. Right to security of person

58. The right to security of person has improved significantly since the AFDL came to power. Nevertheless, there are signs of deterioration, especially in the Kivu region where Batutsi frequently evict owners in order to appropriate the property for themselves. One typical case among many

occurred on 2 February in Matadi-Mayo, a commune of Mont Ngafula. Two hundred families were evicted from their homes – despite the fact that they all held legal title thereto – and were robbed and a number of girls were raped. Every day soldiers steal vehicles, money, jewellery, etc. throughout the country. "Soldiers robbed me of US$ 450"; "they struck a moneychanger and robbed her of NZ 300,000,000"; "English-speaking soldiers came into my house and stole my radio, money and jewellery"; "the Rwandese kidnapped my son, brought him bleeding back to my house and demanded 1,000 dollars, but I only had 350, so they beat me and took the money", etc., are reports received by the Special Rapporteur. (Annex 7)

D. Right to liberty of person

59. Liberty of person has been very seriously compromised: journalists, foreign correspondents, political leaders, human rights defenders, anyone suspected of pro-Mobutu sympathies, of supporting the Mai-Mai or the *Interahamwe* can be arrested and held with or without trial by officials of ANR, DEMIAP or AFDL. Even their relatives can be arrested. Some of the leaders of the old regime, Bembe Salona, for example, are held and released at will. Some of those released remain under house arrest or their movements are restricted and they are required to report to the authorities or to stay away from certain places. Others have bought their freedom by paying large sums of money. The Government is fully aware of the injustice of these arrests, as was demonstrated when President Kabila himself visited the opposition leader Etienne Tshisekedi at his place of enforced residence, a few days before the report of the Secretary-General's Team, for the purpose of arriving at a political agreement, which the prisoner did not accept. (Annex 8)

60. The detention, in May, of the Chairman of the National Radio and Television Corporation and his colleagues, the Minister of Information, the President's Principal Private Secretary and other high-ranking officials, because of their responsibility for broadcasting a report of the wars in Africa depicting the reality of what happened in the AFDL war of liberation, illustrates the precarious state of liberty of persons.

61. Another area where liberty of persons is affected is the right to enter and leave one's own country (article 13 of the Universal Declaration of Human Rights and 12 of the International Covenant on Civil and Political Rights). (Annex 9)

Prison conditions

62. There have been reports of unauthorized prisons, including on the property or in the homes of high Government officials. The Buluwo prison, where Ngoma, Masasu and Olengankoy were held, is not a legally authorized facility, and Ngoma described it to the Special Rapporteur as the "antechamber of death" because of its filth and the quality of the food; prisoners are permitted to leave the isolation cells only to use the toilet.

63. In the ANR and DEMIAP detention centres, even in Kinshasa, men and women are held in the same facility, along with children, such as the detained Mai-Mai children.

64. A woman died of starvation in the Centre Penitenciare et de Reeducation National of Kinshasa and from 3 to 5 prisoners died there in February from diarrhoea. As of July, the International Committee of the Red Cross had not been able to visit any prison or police detention centre.

E. Right to due process

65. The serious dependence of the judicial branch on President Kabila (article VI of Decree-Law 3/97 – see document E/CN.4/1998/65, para. 162) continues, to such an extent that, on 25 April, by a single decree he terminated the services of 91 magistrates of all ranks.

66. On 18 February, Judge Selemani, who had been ordered to execute a sentence against the Communal President of AFDL in Kimbanseke, Songo Titi Lambert, for offences against the Magistrature, was arrested by order of the Provincial President of AFDL, Kay Kumuimba. Two other magistrates were forced to go into hiding.

67. Moreover, the military court, which was established in 1997 to try cases involving crimes committed by soldiers and police officers and armed robbery, is trying all types of cases, including those affecting State security which are under the jurisdiction of the Court of State Security. The understanding of the military court, which has no basis in law, is that those matters come under its jurisdiction because the "state of war" in effect since 1997 has not been lifted. The military court has tried cases totally unrelated to its mandate, such as violation of the ban on political parties (Ngoma and Olengankoy), treason against the State and establishment of private militias (Masasu); visiting a political prisoner (the girls Nellie Epule Difumakoy and Viviane Bimbou Nyembo). In addition, it frequently applies the death penalty.

68. By way of example, the Special Rapporteur notes some of the irregularities in the trial of Ngoma, Olengankoy and others (25 individuals, including 11 soldiers): (a) the accused were not brought before a judge without delay (they were arrested on 28 January and appeared before a judge on 2 March); (b) their lawyers were given only three hours to prepare a defence; (c) the lawyer was not able to interview the defendant until right before the hearing; (d) the prisoners were tortured; (e) there was no equal access to evidence: much of it was illegal and could not be objected to (not endorsed by the appropriate officials); (f) under the law, there is no possibility of appealing a verdict. (Annex 10)

F. Right to freedom of expression and opinion

69. The Special Rapporteur once again affirms that the Congolese people do not enjoy the right to freedom of information, despite the presence of newspapers in the capital. This freedom is seriously threatened: the Minister of Information and Culture on 12 January and the Attorney-General of the Republic on 22 May both stated that journalists engaged in insult, defamation and the propagation of false and seditious statements, which are not crimes of opinion. On 2 February in Lubumbashi, it was added that "the press will be reined in".

70. Newspaper sellers are frequently detained by soldiers; Congolese newspapers may not be taken out of the country (baggage is searched).

71. There is no pluralism at all on the State-run radio and television stations. Private radio stations have frequently been closed or suspended (annex 11, not to mention many cases dealt with under other rights).

G. Right to freedom of association

72. In addition to banning political associations, non-governmental organizations in the field of human rights have been ransacked, threatened, suspended, banned and their leaders attacked and imprisoned. On 16 January the Minister of the Interior maintained that some people did not understand the liberation and were obstructing it by creating NGOs, which were actually banned political parties. He threatened that anyone who violated the ban would be tried before the military courts. He stressed that only AFDL, the movement of all the patriotic forces in the Congo, was capable of leading the country to democracy. On 20 February the Council of Ministers debated the situation of non-governmental organizations, accusing them of giving arms to the rebels (meaning the opposition, since there was no rebellion). Foreign non-governmental organizations were required to register anew (annex 12).

73. In March there were some encouraging signs: the Ministry of Justice asked to work with NGOs to follow up on reports of human rights violations; a seminar was held with the Office of the United Nations High Commissioner for Refugees and also a working meeting with *Droits de l'Homme Maintenant*. But those signs did not last. Within a few days the annual report of AZADHO, a legally established organization since 1991, was confiscated and the organization was closed down; its leaders and those of VSV were summoned before the National Security Council; Floribert Chebeya (VSV) was attacked at his home; a press campaign was launched against those organizations and they were accused of being traitors and being responsible for the failure of the meeting between Presidents Clinton and Kabila.

74. On 3 April, the very day when, with the Democratic Republic of the Congo joining in the consensus, the declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms (Commission on Human Rights resolution 1998/7) was adopted, all non-governmental organizations in the field of human rights were required to register within three days. On 10 April there were only 22 authorized organizations at the national level. Many are currently underground. The presidents of ASADHO, and Grande Vision were forced into exile, together with many others.

75. On the other hand, the AFDL Government has established institutions for human rights which it calls "non-governmental". Decree-Law 071 of 18 May gives civil personality to the non-governmental organization *Solidarité entre Nous*, to channel humanitarian assistance to the Congolese people, coordinate the activities of national non-governmental organizations, and to report on the granting of permission for them to operate and to guide their work. Another "NGO" of the same type is the Congolese Union for the Defense of Human Rights, which is responsible for identifying "for the Government" human rights violations and cases of external manipulation.

76. In addition, the "Federation of Congolese Businesses" was dissolved and the Government created the National Association of Congolese Businesses.

H. Economic, social and cultural rights

77. *Health.* There is no report of measures being taken to the maximum amount of available resources to ensure the right to health, and the situation has worsened since 2 August. Indeed, before the closing of the Kapalata military camp in February, there were 1,311 cases of cholera, 380 of them fatal; this represents a mortality rate of 20 per cent – the normal rate is 1 per cent. In addition, there were 103 cases of bacillary dysentery, 16 of them fatal. In the camp, 64 per cent of the population were undernourished, 45 per cent seriously. It is worth noting, however, that several officers accused of selling humanitarian aid were arrested.

78. At the same time, however, in Kapalata, the AFDL Government hindered the efforts of UNICEF to provide aid to 3,000 children between the ages of 8 and 14 who were in danger of dying, alleging that they were Mai-Mai.

79. In Tembo, Bandundu, 37 out of 114 people infected with meningitis died. In February, a cholera epidemic broke out in both Kivu provinces. The mortality rate was high; 58 of the 500 cases were fatal.

80. *Jobs.* Civil servants still have not been paid. In fact, the Government has paid only four full months' salaries. In January, the teachers in Équateur had not been paid for 12 months, and in Bandundu, they had not been paid for 10 months.

81. The Government has kept inflation more or less under control, thanks to the support received from the International Monetary Fund and the World Bank. Between January and May, the inflation rate was around 40 per cent. The rate for the new Congolese franc was set at US$ 1.40, but in April prices rose sharply once again.

82. *Education.* Parents still pay for schooling. Several schools charged a fee of US$ 15 for the final examination, and as a result, many students were not able to sit for it. The Rapporteur received several complaints about this matter.

J. Situation of children

83. Even before the war, and more so after it started, children were being recruited into the Congolese Armed Forces (FAC), according to UNICEF. It is estimated that around 10,000 children are in military service. The case of a 13-year-old kadogo child named Malumu is particularly dramatic. He was sentenced to death, and then his sentence was commuted to life imprisonment by the President, in flagrant violation of article 37(b) of the Convention on the Rights of the Child.

K. Situation of women

84. There was no improvement in regard to the rights of women and the issue of cultural discrimination, particularly in the area of education. The Special Rapporteur continued to receive complaints about women and girls being raped in prison and, since the insurgency began, in connection with the war (see para. 58). Two daughters of UDPS leader Mukuna were raped on 12 March. Prisoner Viviane Bintou made a statement before the military court concerning the torture she had suffered at the hands of the National Information Agency (ANR), as well as the deplorable conditions in jail.

85. During the ethnic conflict in Kivu, single women were considered by AFDL troops to be witches and cannibals; consequently, in Limangi they were beaten, tortured and killed. Five cases have been reported, including one whose family name is Kahindo.

VII. Conclusions and recommendations

A. Conclusions

86. The Rapporteur has prepared his report in good conscience, with the information available to him. He realizes that there are strong interests at work to try to prevent public disclosure of the events described. Nevertheless, he must fulfill the task that was entrusted to him by the Commission on Human Rights, to which he is accountable.

87. The Government has not put an end to internal rivalries nor has it achieved national unity. Ethnic conflicts have continued, and the victors are imposing their will. The vanquished are not only the sectors of the population that have ties with the former regime. The Government also treats as vanquished those who fought for democracy against the Mobutu dictatorship, the non-governmental organizations, journalists, human rights advocates and political leaders, all of whom are being humiliated, threatened, imprisoned and persecuted.

88. The democratic process was not paralysed by the war: it was already paralysed. The proposed constitution that has been drawn up is not satisfactory to the large majorities who still hold to the CNS agreements; these, of course, may be changed or replaced by another authentic national agreement. As stated in previous reports, the President still has absolute power, and the amendment to Decree-Law No. 74 has not changed the situation.

89. There continue to be very serious violations of many human rights, including the right to life, to physical and psychological integrity, liberty of person, freedom of association, due process and freedom of expression and opinion. No effort is being made to end cultural practices that discriminate against women, nor are any programmes in place to protect economic, social and cultural rights.

90. The Government refuses to take responsibility for the violations of human rights and of international humanitarian law that occurred during the conflict, claiming that the Special Rapporteur, the joint mission, the Secretary General's Investigative Team, the European Union commissioners, and the intergovernmental and non-governmental organizations are all liars, it has ignored their reports. Furthermore, whenever Congolese television timidly shows mass graves and scenes of the tragedy in the Rwandan refugee camps (*"plus jamais ça"*), the reporters and even the Ministers presumed to be involved in the reporting, are jailed.

91. The Government has taken an ethnic-cleansing approach to the August insurgency. It is not fair to say that all Congolese Tutsis are in favour of the war. In fact, some of those who took refuge in Rwanda in 1996 want to return to their country, which should also have a place for them.

92. The Government has not cooperated at all with the Special Rapporteur; neither has it cooperated with the joint mission sent by the Commission on Human Rights, the Secretary General's Investigative Team or any mechanisms set up by the Commission on Human Rights. Consequently, the Special Rapporteur has not been able to fulfil the mandate, set forth in resolution 1998/61, to report "on the possibilities for the international community to assist with local capacity-building".

93. It is encouraging to see that the Government has taken decisive action in some cases, to deal with corruption on the part of its authorities.

94. The creation, on 1 June 1996, of the Ministry of Human Rights is also worth mentioning. Although it is not yet known what its role is, it can become an important factor in the protection and promotion of human rights.

95. This is also true of the prison reforms announced by Minister Mwenze Kongolo. The idea is that instead of serving as torture centres, the prisons would become job training centres.

B. Recommendations

96. First of all, the Special Rapporteur endorses all the recommendations of the Secretary-General's Investigative Team, as set forth in document S/1998/581, chapter IV.B, paragraphs 1 to 13, particularly as regards the expansion of the competence of the International Criminal Tribunal for Rwanda or the establishment of another international criminal tribunal to include the actions alluded to in that report committed by any person, regardless of nationality, between 1 January 1994 and 31 December 1997. Witness protection measures should also be taken.

97. At any rate, the Government should comply with the request made by the President of the Security Council to the effect that these events should be investigated and a preliminary report should be submitted by 15 October.

98. The Government of the Democratic Republic of the Congo should put an end immediately to all persecution of political leaders, human rights advocates, journalists and members of the opposition, allowing the full operation of all political parties, and restoring freedom of association and freedom of expression. It is imperative that an immediate stop be put to the operation of the military court and its practice of ordering summary executions.

99. Above all, the Government must pave the way for the establishment of democracy, allowing the full participation of all political and social groups, and taking a flexible approach to the popular will as expressed in the agreements of the National Sovereign Conference.

Notes

[1] Whenever a date is given without a year, the year is assumed to be 1998. In addition, "Zaire" or "Republic of Zaire" will be used to refer to the Government which governed the country until 17 May 1997, and "Democratic Republic of the Congo" to refer to the Government which took power on that day.

[2] These are former combatants who were contemporaries of Pierre Mulele, a companion of Patrice Lumumba (Mai-Mai, formerly Mulele may). They have no ideology; they sided with the *Interahamwe* against the invaders but when Kabila appointed Banande and Banianga in representative posts, they chose him over Mobutu. When the war ended, however, they decided to fight the AFDL "invaders".

[3] For obvious reasons, the military aspects of the conflict are not discussed.

[4] President of the Forces de Future Party, detained on 25 November 1997, tortured, sentenced by the military court, and freed on 24 May. The Special Rapporteur interviewed him in Paris on 16 July, at which time he ratified his decision to oppose the Kabila dictatorship by peaceful means .

[5] On the same day, a list was published with the names of 251 individuals who, having held high positions under Mobutu, were not eligible for the Assembly. These included Tshisekedi, Bishop Monsengwo, Gisenga and Kengo. The list was disclaimed by the Government.

[6] The events mentioned, all occurred prior to the August insurgency and therefore cannot be attributed to it.

[Original: French]

Annex 1

Congolese non-governmental organizations based in the Democratic Republic of the Congo and elsewhere that have been contacted by the Special Rapporteur or from which reports have been received

Association zaïroise pour la défense des droits de l'homme (AZADHO), since April 1998 known as the Association africaine pour la défense des droits de l'homme (ASADHO); Association nationale pour la défense des droits des migrants et ceux de la femme (ANADDEM-F); Carrefour des initiatives pour l'auto-développement des communautés de base dans la région de Goma (CIAGO); Centre des droits de l'homme et du droit international humanitaire de Lubumbashi; Collectif d'action pour le développement des droits de l'homme (CADDHOM), Southern Kivu; Comité de solidarité Palermo-Bukavu; Comité droits de l'homme maintenant; Broederlijk Delen (Concertation Chrétienne pour l'Afrique Centrale); Groupe Amos; Haki Za Binadamu de Maniema; Conseil national des organisations non-gouvernementales de développement (CNONGD); Grande vision; Ligue des électeurs; Physicians for Human Rights; Médias libres, médias pour tous; World Organization against Torture; Toges Noires; Voix des sans voix pour les droits de l'homme (VSV).

International NGOs

International Human Rights Law Group; International Federation of Human Rights Leagues (IFHR); Human Rights Watch/Africa; Amnesty International; Centre d'information, de recherche et de solidarité avec le Congo (COZI); Lawyers without Borders; Médecins du monde; Doctors without Borders; Union des associations spécialisées en matière électorale; Voix de l'enfant.

Political parties

Union pour la démocratie et le progrès social (UDPS), Parti démocrate et social chrétien (PDSC); Mouvement national congolais/Lumumba (MNC/L); Alliance pour le développement et la concorde (ADECO); Forces du futur.

Annex 2

International Covenant on Economic, Social and Cultural Rights

International Covenant on Civil and Political Rights

International Convention on the Elimination of All Forms of Racial Discrimination

International Convention on the Suppression and Punishment of the Crime of Apartheid

Convention on the Prevention and Punishment of the Crime of Genocide

Convention on the Rights of the Child

Convention on the Elimination of All Forms of Discrimination Against Women

Convention on the Political Rights of Women

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery

Convention relating to the Status of Refugees

Protocol relating to the Status of Refugees

Geneva Conventions of 1949

Annex 3

Mwami (chief) arrested on 27 January,* and subsequently released:

Désiré Kabare Rugemaninzi (Kabare district)
Pierre Ndatabaye Weza III (Ngweshe, Walungu)
Mwami de Lubindja
Masu Ga Rugamika
Babunga Augustin
Ruhigita Bulangalire Majagira

* Whenever a date is given without a year, the year is assumed to be 1998.

Annex 4

Several cases of human rights violations submitted to the Government

Death penalty (see corresponding paragraphs in the report)

6 January, in Bukavu: two members of the armed forces and one civilian. A pregnant woman awaiting execution.

7 January, a young man, for assisting the Mai-Mai.

Jean Claude Muriru and Muhanzi Shombo, soldiers.

Nine persons for armed robbery in Goma.

Twelve persons in Bukavu: among others Matabaro, Ngonza, Musema Gatabazi, Mungonderwa, Kalele Muhoza and two members of the armed forces who were opponents of the regime.

3 March, 16 persons (14 soldiers and 2 civilians) publicly executed in Lubumbashi (Wangu military camp).

28 March, in Kinshasa: Malumu, a 13-year old boy who killed an employee of the local Red Cross during a soccer match, immediately sentenced to death. Following intense international pressure, the Government commuted his sentence.

15 May, six members of the armed forces executed for armed robbery in Goma.

The Banyamulenge leader, Ruhimbika Muller, was likewise sentenced to death by the Military Court. He managed to flee by escaping from his place of detention.

5 to 23 June, 14 death sentences for armed robbery and murder: Kyangwe Lwimbo, Badibanga Kalonde, Ruaga Hungu, Lemba Erick, Tshibuabua Mukubayi, Bahati Birembano, Thisola Pierre, Bofanda Jean, Kenga Ngoy, Kyungu wa Mbuyu, Zamba Wali, Amisi Masimangu, Dianambo Mushakamba, Yiukilayi, Kabasele Tshiondo.

22 July, in Kinshasa, eight persons, one of whom was sentenced *in absentia* for belonging to a sect allegedly associated with King Misele Nsemi Lubadika, the self-proclaimed "King Misele,"who advocates the secession of the regions of Kinshasa, Bas-Congo, and Bandundu.

Annex 5

Arbitrary deprivation of life by members of the armed forces, who are abusing the impunity they enjoy

9 February, in Kimbanseke, Willy Tshunza and his fiancée Christine (a Nigerian).

13 February, in Bandalungwa, Danny.

13 May, Cardinal Frédéric Etsou's niece.

17 May, in Bukavu, the PIR shot and killed a certain Wenceslao Tabaro.

7 June, in Kinshasa, summary execution of a certain Floribert Kamaragi, member of a religious order, in the parish house. Several moments later, a certain Tshibwabwa Kapinga was also killed.

10 June, in Kinshasa, execution of Mr. Sindanien.

21 July, summary execution of a certain Jacques Thierry, a Belgian national, by a member of the Presidential Guard.

22 July, in Masina, Musema Be, 16 years old.

During this same period, Anna Desrumeaux, a Belgian nun who had lived for 30 years in the former Zaire, was murdered in her convent in Kananga (Kasai Occidentale) by members of the armed forces carrying weapons of war. That murder occurred after the nun had been called in several times by a judge and by the police regarding the Tantamana school. Following that egregious crime, five members of the armed forces were each sentenced to five years in prison, but other participants were acquitted.

Annex 6

Torture

Officers belonging to the "Simba Brigade", detained since December 1997 by the Special Presidential Security Group: Generals Kapepa, Kanyinda, Ngongo, Omari, Assani, Sabiti, Mavinga, Mul Ange.

On 14 January, Ngalama, a member of the armed forces, accused of having helped Mokassa Libeba to escape.

On 2 February, 200 families were expelled from their homes by members of the armed forces who seized their legally acquired belongings, near the Police Training Centre in Matadi, in the town of Mont Ngafula. Several girls were

raped. All these actions were committed by the order of a person known as "Commander John".

On 20 February, Katenda was tortured in Gombe district, by a commander of the provincial police.

In July, 20 persons, among them Nzolameso, Nganda Baramoto, Fukwa and Honoré, were detained at Ngaliema by the presidential protection unit in a flooded room with no access to sanitary facilities, and were gravely tortured.

On 10 February, Joseph Albert Mena Menga, former Councillor of the Republic, was detained by the presidential protection unit at Ngaliema, and was struck with a club 70 times.

Leaders of the Olengankoy and Ngoma opposition.

In May, Bwatisa Rufin, accused of witchcraft, was handled roughly by members of the National Information Agency (ANR), in Bagata.

On 23 May, in Yatoko, Eastern Province, members of the PIR mistreated Masambuko, Kayemo and Bendro for stealing food and animals from residents.

On 25 May, Philippe Biyoya, a detained diplomat.

In June, the leaders of Kolo-Kidezo were struck 41 times by members of ANR, in Bagata, for requesting a new mayor.

On 10 June, Zokita Lewa, Mulongo Nzege, Masele Mongengo and Manze, members of the former Zairian armed forces, were tortured by order of Commander Ipoko of Ndolo air base.

On 7 July, four members of the Kimbanguiste Church were tortured in Kinshasa.

On 15 July, Chief Zobolo from the village of South Tsundi, Bas-Congo, and his family, were tortured by members of the Congolese armed forces, in retaliation for denouncing them for the commission of egregious crimes.

Annex 7

A few examples of violations of the right to personal security committed by members of the armed forces

On 30 January, in Matonge, Kalamu, Omar Ntumba Shabangi, a former Deputy Minister, was robbed, and his automobile was stolen.

On 1 February, Patrick Bemba, a member of the departmental staff of the Minister for Foreign Affairs, was robbed and kidnapped.

On 2 February, Jean Jacques Kandeke, leader of a non-governmental organization, and his wife, were kidnapped in Ndjili.

On 2 February, Marc Olivier Tshibelu, a diplomat, was attacked, and his vehicle was stolen.

Also on 2 February, Kumuini, a resident of Kalamu, was attacked and robbed on his land.

On 19 February, Modeste Mutinga was arrested and robbed.

On 23 May, in Yatoko, Eastern Province, members of PIR stole food and animals from residents.

On 10 May, Mr. John of the Joint United Nations Programme on HIV/AIDS was knifed and robbed.

Annex 8

Persons arbitrarily deprived of their liberty

Mossi Mwasi (journalist): four months' imprisonment.
Diomi Ngongala
Ngoy wa Ngoy

Freddy Libeba: arrested on 12 December 1997, released on 28 April 1998, arrested again on 3 May "for his own protection".

Arthur Z'Ahidi Ngoma: arrested in November 1997, tortured, transferred to Lubumbashi, placed on probation by the military court and released

Joseph Olengankoy (Chairman of Forces novatrices pour l'union et la solidarité (FONUS)): arrested and held since 20 January 1998, transferred first to Lubumbashi, then to Likasi, sentenced to 15 years' imprisonment by the military court.

Patrick Claes (Belgian national): arrested on 18 August 1997, under house arrest since February 1998.

Charles Tshimanga (Secretary-General of the Union Socialiste Congolaise) and Mbelu Shambuyi (activist): arrested by ANR officials on 14 April.

Fabrice Michalon (French national employed by Médecins du Monde): arrested on 4 May, accused of espionage, held for two months without trial before being expelled from the country.

General Kapepa and Officers Kanyinda, Ngongo, Omari, Assani, Sabiti, Mavinga and Mulele Ange (Officers of the Simba Brigade): arrested in December 1997 by the Groupe Spécial de la Securité Présidentielle and tortured.

Joseph Baudelaire Otenga (official of Mouvement National Congolais/Lumumba and conseil national de résistance pour la démocratie member): arrested by Rwandan soldiers, accused of cooperating with the Mai-Mai and, according to Commander Joseph Kabila, of complicity with former officials of the Mobutu Government.

Perry Magloire Kamuy, Julien Samba, Simon Mayinga and Evariste Kadima (Directors of Société Culture et Elevages du Congo (CELCO)): arrested by the Ngaliema, Kinshasa PIR on 13 January.

Bayila Bantu Panzo, Komanda Betukudianga, Mangole, Ndongala and Melle Monsongo (UDPS official): arrested by the Kinshasa PIR on 17 January for having visited their leader, Etienne Tshisekedi, and tortured with a cattle prod.

Athanase Oyumbu and Paul Kasongo (FONUS officials): arrested on 27 January, released on 29 January, arrested again on 30 January and transferred to Eastern Kasai.

Ngalama (soldier): arrested on 14 January and tortured for having assisted in the escape of Mokassa Libeba.

Six Syndicat Solidarité trade union leaders: arrested for disorderly conduct on 17 January; on 19 January, Steve Mbikayi, Secretary-General of the union, and Diumu and Henri Kiliba, union officials, were arrested for disturbing the peace during Office National des Transports union elections.

Catherine Nzuzi wa Mbombo Tshianga (senior Mouvement populaire de la révolution official): arrested on 27 January.

Ike Moke (Chief of the village of Ngambu Sinangba), Ngbokoli Eddy Pascal, Ngwadu Zangayo, Silo Albert, Kady Mboligie, Kifula Gwadu, Masikini and Ngbakoli: arrested on 4 February in Ndilli.

Twenty UDPS youths: arrested on 4 February in Ndilli.

Albert Bonsange Yema (journalist) and three members of his family: arrested on 7 February by the PIR for having called for the release of Olengankoy; sentenced to one year's imprisonment by the Military Court.

Etienne Tshisekedi wa Malumba, Jean-Marie Thimanga, Bozi Léonard, Katumbayi Alexandre, Kafungi Pierre, Kangu Willy, Mukanya Démocrate, Désiré Elompasi, Tshimbumba François, Denis Kanyinda, Ilumga Kapompa, Eugène Mubeya, Samuel Mawege, Célestin Bilenga and Jerry Dikala (UDPS officials): illegally detained at the home of Etienne Tshisekedi on 12 February; Mr. Tshisekedi was transferred to Kabeya Kamwanga, the village of his birth in Eastern Kasai, for having met with the Reverend Jesse Jackson and having been involved in the death of Patrice Lumumba, and was confined to his village until his release in July.

Mbanzulu Pépé Bikandu (FONUS member): arrested on 7 February.

Thirteen UDPS activists: arrested in Ndjili on 4 February.

Antoine Aboulouka Bolinda: arrested by soldiers on 5 March.

Reverend Mbala Ntumba (UDPS official), Alidi, Batupanzi, Nyimi and Bolanda: arrested on 13 March.

Twelve former FAZ members and five Rwandan refugees: arrested in February and held without trial at Buluwo prison in Likasi.

André Ipakala (journalist and editor of *la Référence Plus*): arrested on 18 April; later released.

Yossa Malasi, Makulo Johnny, Lisongo Levian, Dango Roger, Ngayoumou Rufin and Wawina Paul (former FAZ members): arrested by DEMIAP officers for association with Mobutu.

Kasabu and Tshilumba (UDPS officials): arrested on 20 April.

Nindaga (father of Commander Masasu), his colleague, Kamwanya Bora, his uncle, Mikobi, and a Lebanese friend: arrested on 21 April.

Michel Luya (journalist with the newspaper, *Le Palmarès*): arrested for publishing a statement by Etienne Tshisekedi.

Papy Sombo Yuma and Lucien Senga Ngoye (ANR members), Marie Kaj (National Police), Mutamba Lessa Théo (National Radio and Television (RTNC) member): arrested for sending a letter to President Kabila.

Sixty refugees from the Republic of the Congo, including Bonaventure Boukaka Oudiabantu: arrested and accused of membership in Bernard Kolela's private militia.

Antonio María Sucolate, Alphonse Massanga, Albert Nduli and Emmanuel Nzita (Cabindan officials): arrested on 21 May.

Thierry Kyalumba Kabonga (journalist and director of *Vision*): arrested on 21 May for publishing inappropriate news and a letter from the former Minister, Kamanda wa Kamanda.

Kidimbu Mpese and Awazi Kharomon (journalists with the Belgian newspaper *Le Soft*): arrested by DEMIAP officers for distributing the international edition of this newspaper in Kinshasa.

Mosese Onses (former FAZ colonel): arrested by the Groupe Spécial de la Securité Présidentielle but not charged.

Christophe Lutundula Apala (parliamentarian during the Mobutu era): arrested on 14 July for statements which he had made to *Radio Catholique Elikya*.

Chrispin Ipondo, Richard Kapata, Jules Mokwi, Steve Ilunga, Tshijos Muzumi and Annie Mushiya (young UDPS activists): arrested in Kinshasa on 25 June, released on 29 June.

Mukendi wa Mulumba, Marcel Mbayo, Firmin Kama, Amédée Kirarahumu, Nyembo Yalumbu, Bieme Ngalisame, Ezulua Monzemba, Modeste Kikunga, Shabani Miteko, Mbeli, Yaone, Honorine Nabunyi and Malato Mukendi (UDPS officials): arrested by ANR members at the home of Etienne Tshisekedi; at least two of them were tortured.

Annex 9

Persons deprived of the right to enter and leave their own country

Joseph Sita Nsonizeno (UDPS official): arrested and detained upon arrival in the country on 31 May for having left without Government authorization.

Balanda Mikuin Leliel (former Chief Justice of the Supreme Court, former Chairman of the Ad Hoc Working Group of Experts on southern Africa and member of the United Nations Administrative Tribunal).

Annex 10

Persons tried by the Military Court

Political crimes not covered by the Decree-Law on the Court's jurisdiction

Justin Nindaga and Alphonse Kaseba: sentenced to 20 years of forced labour and fined for having called for the release of Commander Masasu.

Kalehe Ka-Bila and Jean-François Kabanda (UDPS members): sentenced to two years' imprisonment for "false rumours"; lawyers from the non-governmental organizations (NGOs), Toges Noires and Avocats Sans Frontières, refused to defend them in protest against flagrant irregularities and procedural irregularities.

Théodore Ngoy (Pentecostal minister): convicted of subversive preaching.

Annex 11

Violations of the right to freedom of expression and opinion

Father Evariste Pini-Pini, Director of *Radio Tomisa*, in Kikwit: arrested on 30 December 1997 and detained for 12 hours for criticizing the military.

Offices of the newspaper, *Le Moniteur de l'économie*: robbed by soldiers on 7 January.

Modeste Mutinga Mutuishayi (editor of the newspaper, *Le Potentiel*): detained for 5 days as from 25 February for refusing to disclose his sources.

Albert Bonsange Yema (journalist) and three members of his family (see annex 8).

Frédéric Kitenge Kikumba and Michel Museme Diawe (journalists with Radio télevision nationale congolaise): suspended on 18 February for failure to comply with high-level directives on the handling of information.

Copies of the international edition of the newspaper *Le Soft* were confiscated at Ndjili International Airport in March because it contained an article on the situation in the east of the country.

Radio Amani (radio of the Kisangani Catholic Church): banned by the Minister of the Interior on 18 April for allegedly engaging in politics.

Annex 12

Violations of the right to freedom of association

Human rights organizations

Offices of numerous NGOs in Southern Kivu: robbed by AFDL members in search of Mai-Mai on 18 February; 24 people were arrested and detained.

Samba Jean-Pierre (Chairman of Grande vision pour la défense des droits de l'homme): threatened for having maintained during a lecture that the right to a nationality is contingent upon domestic law, thereby angering Rwandans.

Paul Nsapu and Sabin Banza (Ligue des Electeurs officials and human rights activists): arrested by ANR officials on 27 April, as they were leaving the Belgian embassy, and charged with espionage; they were released on 10 August without having been tried.

Brigitte Mutambala Mapendo (European Group of Public Administration): arrested and detained on 30 April.

Suliman Baldo (Human Rights Watch): held in secret detention for 24 hours, then expelled.

Political parties

UDPS (Kinshasa): robbed by some 100 PIR soldiers on 13 March; the home of Adrien Phongo, Secretary-General of the organization, was robbed and UDPS headquarters was requisitioned and converted to a police polyclinic.

Kwet Muan Kwet John (FONUS official): his house was robbed and political party posters were stolen.